

### **REMARKS**

By this Amendment, Applicants propose amending claims 1, 24, and 47 to more appropriately claim the present invention, and propose amending claims 55 and 56 for clarity. Claims 1-5, 7-19, 24-28, 30-42, 47-51, and 53-65 remain pending in this application.

In the Final Office Action mailed April 21, 2004, the Examiner rejected claims 1-2, 5, 7-8, 13-15, 18-19, 24-25, 28, 30-31, 36-38, 41-42, 47-48, 51, 53-54, 59-61, and 64-65 under 35 U.S.C. §102(e) as anticipated by Sim (U.S. Patent Application Publication No. 2003/0031176); rejected claims 3-4, 26-27, and 49-50 under 35 U.S.C. §103(a) as unpatentable over Sim in view of Farber et al. (U.S. Patent No. 6,415,280); and rejected claims 9-12, 16-17, 32-35, 39-40, 55-58, and 62-63 under 35 U.S.C. § 103(a) as unpatentable over Sim in view of Cabrera et al. (U.S. Patent No. 6,490,666).

Applicants respectfully traverse the rejection of claims 1-2, 5, 7-8, 13-15, 18-19, 24-25, 28, 30-31, 36-38, 41-42, 47-48, 51, 53-54, 59-61, and 64-65 under 35 U.S.C. §102(e) as anticipated by Sim. To properly anticipate Applicants' claimed invention, the Examiner must demonstrate the presence of each and every element of the claim in issue, either expressly described, or under principles of inherency, in a single prior art reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2121 (8<sup>th</sup> ed., Aug. 2001), *quoting Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Finally, "[t]he elements must be arranged as required by the claim." M.P.E.P. § 2131 (8<sup>th</sup> ed. 2001), p. 2100-69.

Applicants' claim 1, as proposed to be amended, recites a method for managing files in a file system, comprising steps of, among other things, "storing the segments in

a primary storage; copying at least one of the segments in the primary storage onto a secondary storage; and releasing at least one of the segments copied from the primary storage when copied to the secondary storage, wherein space used by the released segment in the primary storage is available for use and the at least one segment copied to the secondary storage is not released.” Sim does not disclose at least these features.

In making the rejection of claim 1, the Examiner cited the “clean” command, which is described in paragraph 109 of Sim. As described, the distribution server “issues a clean or equivalent command to its neighboring nodes requesting deletion of the files and its related file metadata from all the stations in the SCDN.” Paragraph 109. The neighboring nodes are the same nodes that the Examiner alleges to be the secondary storage units. In other words, a clean command from Sim deletes the file from both the distribution server and its neighboring nodes. This does not constitute “releasing at least one of the segments copied from the primary storage when copied to the secondary storage, wherein space used by the released segment in the primary storage is available for use and the at least one segment copied to the secondary storage is not released,” as recited in claim 1. Therefore, the Examiner has not demonstrated that Sim discloses all of the features of claim 1, as proposed to be amended.

Applicants propose to amend independent claims 24 and 47 to include recitations similar to those added to claim 1. Accordingly, Applicants respectfully request the Examiner to allow claims 1, 24, and 47. Claims 2, 5, 7-8, 13-15, and 8-19; 25, 28, 30-31, 36-38, and 41-42; and 48, 51, 53-54, and 59-61, respectively, depend from

independent claims 1, 24, and 47. Accordingly, these dependent claims are also allowable.

Applicants respectfully traverse the rejection of claims 3-4, 26-27, and 49-50 under 35 U.S.C. §103(a) as unpatentable over Sim in view of Farber et al. (U.S. Patent No. 6,415,280). These claims respectively depend from claims 1, 24, and 27, which each recite “releasing at least one of the segments copied from the primary storage when copied to the secondary storage, wherein space used by the released segment in the primary storage is available for use and the at least one segment copied to the secondary storage is not released.” As discussed above, Sim fails to teach at least these elements. Farber does not make up for the deficiencies of Sim. Instead, Farber discloses using a data identifier for a data item to provide the data item from a network of servers. However, this does not constitute “releasing at least one of the segments copied from the primary storage when copied to the secondary storage, wherein space used by the released segment in the primary storage is available for use and the at least one segment copied to the secondary storage is not released.”

Claims 3-4, 26-27, and 49-50 depend from allowable independent claims 1, 24, and 47, respectively. For at least the reasons given above regarding the rejection of claim 1, these claims are also allowable over the cited prior art. Therefore, Applicants respectfully request the allowance of claims 3-4, 26-27, and 49-50.

Applicants respectfully traverse the rejection of claims 9-12, 16-17, 32-35, 39-40, 55-58, and 62-63 under 35 U.S.C. § 103(a) as unpatentable over Sim in view of Cabrera et al. (U.S. Patent No. 6,490,666). These claims respectively depend from claims 1, 24, and 27, which each recite “releasing at least one of the segments copied

from the primary storage when copied to the secondary storage, wherein space used by the released segment in the primary storage is available for use and the at least one segment copied to the secondary storage is not released.” As discussed above, Sim and Farber fail to teach at least these elements. Carbrera, which discloses buffering data from a file in a hierarchical data storage system, does not make up for the deficiencies of Sim and Farber, discussed above.

Claims 9-12, 16-17, 32-35, 39-40, 55-58, and 62-63 depend from allowable independent claims 1, 24, and 47, respectively. For at least the reasons given above regarding the rejection of claim 1, these claims are also allowable over the cited prior art. Therefore, Applicants respectfully request the allowance of claims 9-12, 16-17, 32-35, 39-40, 55-58, and 62-63.

### **CONCLUSION**

Applicants respectfully request that the Examiner enter this Amendment under 37 C.F.R. § 1.116, placing the pending claims in condition for allowance. Applicants submit that the proposed amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

Finally, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

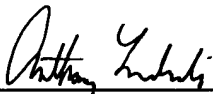
In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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